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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,101	08/20/2001	Claude Lambert	159.1.334 A	7127

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WATOV & KIPNES, P.C.
P.O. Box 247
Princeton Junction, NJ 08550

EXAMINER

CARTER, MONICA SMITH

ART UNIT	PAPER NUMBER
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3722

DATE MAILED: 04/15/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/933,101

Applicant(s)

LAMBERT ET AL.

Examiner

Monica S. Carter

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Royer ('991) in view of Ehrhart et al. ('157).

Royer discloses a document (20) comprising a substrate; a play area comprising an encoded game data portion (22) on the substrate; a non-game data region (area other than game data portion on surface 24) and at least one scratch-off layer (26) over the encoded game data portion.

Royer discloses the claimed invention except for the particular layers of the encoded game data portion as claimed.

Ehrhart et al. disclose methods for processing security documents comprising a game ticket (202) having a first indicia icon layer (226) forming the indicia patterns (223) covered by scratch-off material and a second translucent, printable varnish layer (238 – release layer); wherein both layers are located beneath the scratch-off material (211) (as seen in figure 2-5 and col. 7, lines 5-15). The first and second layers together define a game data region (226) and a non-game data region (228) with the game data region comprising an encoded pattern of symbols (223). The first and second layers are constructed of different materials (as evidenced by the lines of element 226 and the

omission of lines of element 228) and would, therefore, exhibit, different reflectance values. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify Royer's invention by providing the encoded game data portion with two different layers having two different reflectance values, as taught by Ehrhart, to enhance the security of the document deterring the possibility of forgery.

Regarding claims 2, 5, 7, 18, 20, 22 and 27, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a desired value for the reflectance (e.g. the value of the second reflectance less than the value of the first reflectance), since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 3, Royer, as modified by Ehrhart et al., disclose that various colors and shades of colors are seen in white light when illuminated by a narrow band of illumination source (red light - see col. 12, lines 17-20 and 59-63).

Regarding claims 4, 6, 19 and 21, it would have been obvious to one having ordinary skill in the art at the time of the invention to provide any desired range for the reflectance value, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Regarding claims 8 and 9, Royer, as modified by Ehrhart et al., disclose the encoded pattern of symbols being present in the game data region and the non-game data region (as seen in figures 2-4 of Royer and col. 7, lines 5-10 of Ehrhart et al.).

Regarding claim 10, Royer, as modified by Ehrhart et al., disclose the encoded pattern of symbols appearing in less than the entire game data region or non-game data region (as seen in figure 3 of Royer and figure 2-5 of Ehrhart et al.).

Regarding claim 11, it would have been obvious to locate the encoded pattern of symbols in any desired arrangement, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. Furthermore, applicant has failed to disclose that the location of the encoded pattern of symbols is critical to the invention.

Regarding claims 14-17, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a second encoded pattern, a second layer with non-game data, at least one additional layer printed over the at least one scratch-off layer, since it has been held that mere duplication of essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 28, the document is a lottery ticket (see Royer col. 2, lines 13-15).

Regarding claim 29-39, the method of detecting tampering of a document and producing a tamper resistant document is inherently disclosed in the above rejections.

Response to Arguments

3. Applicant's arguments filed February 3, 2003 have been fully considered but they are not persuasive.

Applicant argues that Royer, as modified by Ehrhart et al. fails to show an encoded game data portion with a base layer and a second layer with different

reflectance characteristics located below a scratch-off layer as presently claimed. The examiner disagrees. It is noted that in the previous Office action, the examiner cited element 226' as being the base layer and element 238' as being a second layer, wherein the base layer and the second layer have different reflectance characteristics. Upon further review, the examiner discloses element 226 as the base layer and element 228 as the second layer. As seen in figure 2-5, both layers are located beneath the scratch-off layer 211. Release layer 228 comprises a translucent, printable varnish material which is different from the material used for the base layer 226 (as indicated in figure 2-5). Therefore, it can be concluded that the reflectance characteristics of the two layers would differ as a result of the differing materials used to produce the layers.

For the reasons as set forth above, the rejections are maintained.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica S. Carter whose telephone number is (703) 305-0305. The examiner can normally be reached on Monday-Thursday (8:00 AM - 5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea L. Wellington can be reached on (703) 308-2159. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

April 11, 2003

Monica S. Carter
MONICA CARTER
PATENT EXAMINER